

EXHIBIT A

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

MICHAEL S. KINANE,

Plaintiff,

vs.

CIVIL ACTION NO. 22-C-190

HECTOR M. ACOSTA, LOWE'S HOME
CENTERS, LLC, a North Carolina
Limited Liability Company,
and PENSKE LEASING and RENTAL COMPANY,
a Delaware corporation,

Defendants.

COMPLAINT

1. Plaintiff Michael S. Kinane ("Plaintiff Kinane") is an adult person and a citizen and resident of Greer, South Carolina.
2. Defendant Hector M. Acosta ("Defendant Acosta") is an adult person and a citizen and resident of Miami, Florida.
3. Defendant Lowe's Home Centers, LLC, ("Defendant Lowe's") is a North Carolina Limited Liability Company, which trades and does business within the State of West Virginia.
4. Defendant Penske Leasing and Rental Company ("Defendant Penske") is a Delaware corporation, which trades and does business within the State of West Virginia.

5. At all times relevant to the occurrence and claims presented in this Complaint, Defendant Acosta was an employee and agent of Defendants Lowe's and Penske and was operating the commercial motor vehicle leased and owned by them.

6. On January 28, 2022, Plaintiff Michael S. Kinane was operating his 1999 Toyota Tacoma pickup truck, traveling southbound on U. S. Route 119/Point Marion Road, in Monongalia County, West Virginia, when he was struck, head on, by the commercial motor vehicle owned by Defendant Penske, leased by Defendant Lowe's, and being operated by Defendant Acosta.

7. At the time and place noted above, Defendant Acosta lost and failed to maintain control of his commercial motor vehicle when it fishtailed after negotiating a curve on the slick, snow covered roadway and crossed the center line of the roadway into the oncoming path and lane of travel occupied and being used by Plaintiff Kinane, thereby causing a head on collision which resulted in both vehicles careening over the embankment and into a nearby residential dwelling.

8. At the time and place of the motor vehicle collision at issue in this civil action, Defendant Acosta was negligent and careless in the operation of his vehicle by failing to maintain control while operating the commercial motor vehicle, given the hazardous roadway conditions, then existing, and by operating the vehicle at a speed in excess of that which was reasonable and safe under such roadway conditions.

9. As a direct and proximate result of Defendant Acosta's negligence and carelessness, as aforesaid, Plaintiff Kinane sustained physical injuries (cervical spine fracture and patella fracture), physical and emotional pain and suffering, and loss of income, and has incurred medical and rehabilitation expenses, loss of enjoyment of life, and, to a reasonable certainty, has sustained permanent physical injuries and, in the future, will suffer pain and discomfort.

10. At all times relevant to the occurrence and claims presented in this Complaint, Defendants Lowe's and Penske are liable for the negligent and careless acts of their employee and agent, Defendant Acosta, who was acting with their express knowledge, consent, and permission and

within the scope of his employment and agency with them while operating the commercial motor vehicle at the time it struck Plaintiff Kinane head on as set forth herein.

11. At all times relevant to the occurrence and claims presented in this Complaint, Defendants Lowe's and Penske are liable for the negligent and careless acts of their employee and agent, Defendant Acosta, as aforesaid, because they directed and controlled his activities and operation of their commercial motor vehicle and they were engaged in a joint business venture, enterprise, and vehicle lease agreement with regard to the use and operation of the commercial motor vehicle being operated by Defendant Acosta at the time and place it struck Plaintiff Kinane's vehicle head on.

WHEREFORE, Plaintiff Michael S. Kinane demands judgment of and from Defendants Hector M. Acosta, Lowe's Home Centers, LLC, and Penske Leasing and Rental Company for such amount that will fully and fairly compensate him for his injuries and damages, together with an award of prejudgment and post-judgment interest and such other relief as afforded by law.

**PLAINTIFF DEMANDS A TRIAL BY JURY IN
ACCORDANCE WITH RULE 38, WEST VIRGINIA
RULES OF CIVIL PROCEDURE.**

MICHAEL S. KINANE,
PLAINTIFF,
BY COUNSEL.



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